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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,865	08/18/2003	C. Thomas Hendrickson	033960-002	3333
21839	7590	02/14/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			VIG, NAresh	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/642,865	HENDRICKSON ET AL.	
	Examiner Naresh Vig	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 18 August 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-144 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-144 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 62 and 101 - 142, drawn to method, system and computer readable medium for valuing landscape architecture, classified in class 705, subclass 1.
- II. Claims 63 – 86 and 143, drawn to method and computer readable medium for generating a report, classified in class 705, subclass 1.
- III. Claims 87 – 96 and 144, drawn to method and computer readable medium for insuring an insurable item, classified in class 705, subclass 4.
- IV. Claims 97 – 100, drawn to method and computer readable medium for certifying the valuation of a product, classified in class 705, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §

806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group I is drawn to valuation of valuable whereas group II is drawn generation of a report.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group I is drawn to valuation of valuable whereas group III is drawn insuring an insurable item.

Inventions I and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group II is drawn generation of a report whereas group IV is drawn to certifying the valuation of a product.

Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed

does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group II is drawn generation of a report whereas group III is drawn to insuring an insurable item.

Inventions II and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group III is drawn to insuring an insurable item whereas group IV is drawn to certifying the valuation of a product.

Inventions III and IV are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group II is drawn generation of a report whereas group IV is drawn to certifying the valuation of a product.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for one group is not required for other groups, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claims 1 – 143 generic to a plurality of disclosed patentably distinct species comprising:

Claim 3 -- Material cost is based on growth rate

Claim 14 -- Material cost is based on depreciation rate

Claim 32 -- Future value is based on macro-economic trend model

Claim 34 -- Future value is based on property value trend model

Claim 36 -- Future value is based on developmental program associated with development of the landscape architectural object

Claim 45 -- aesthetic contribution is associated with at least one of a spacing, a mass, an alignment, a color, a lighting, a shading, a texture, and a scent associated with the architectural landscape object.

Claim 46 -- aesthetic contribution is associated contribution is associated with at least one of a unity and variety, a rhythm and balance, an accent and contrast, a scale and proportion, a dimensionality, and a spatiality associated with the landscape architectural setting.

Claim 85 -- report is provided in connection with at least one of an implementation, a scheme, a plan, and a design of the landscape architectural setting.

Claim 86 -- report is provided in connection with at least one of an appraisal and an inspection of property associated with the landscape architectural object and the landscape architectural setting.

Claim 88 -- risk-of-loss is based on frequency-of-loss information.

Claim 90 -- risk-of-loss is based on severity-of-loss information.

Claim 103 -- attribute of the landscape architectural object included in the data model includes at least one of a hardiness, a disease susceptibility, an insect damage susceptibility, a height, a maturity, a spread, a basal width, a container size, a lifespan, a soil adaptability, an

anaerobic capacity, a pollution tolerance, a drought tolerance, a fire tolerance, a frost tolerance, a precipitation range, a salinity tolerance, a shade tolerance, a drainage capacity, a shade-to-sun capacity, and a temperature tolerance.

Claim 109 -- attribute of the landscape architectural object included in the data model includes at least one of a material type, a construction quality, a dimension, and a material finish.

Claim 124 -- aesthetic data included in the data model includes at least one of a spacing, a mass, an alignment, a color, a lighting, a shading, a texture, and a scent associated with the architectural landscape object; and at least one of a unity and variety, a rhythm and balance, an accent and contrast, a scale and proportion, a dimensionality, and a spatiality associated with the landscape architectural setting.

Claim 104 -- attribute of the landscape architectural setting included in the data model includes at least one of a geographic location, a climate, an air quality, a pollution amount, a temperature, a rainfall amount, a sunshine amount, an atmospheric pressure, a wind amount, a slope, an altitude, a drainage, a landscape density, a shade-to-sun ratio, a soil pH, a soil salinity, a soil hardness, a soil compactness,

a soil texture, a soil color, a calcium carbonate (CaCO<sub>3</sub>) content, and a moisture retention factor.

Claim 110 -- attribute of the landscape architectural setting included in the data model includes at least one of a geographic location, a climate, an air quality, a pollution amount, a temperature, a rainfall amount, a sunshine amount, an atmospheric pressure, a wind amount, a slope, an altitude, a drainage, a shade-to-sun ratio, and a soil compactness

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Naresh Vig  
Patent examiner  
February 9, 2005